

T.L.W. asks the Utah Labor Commission to reconsider its prior decision denying Ms. W.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Ann. §63-46b-13.

BACKGROUND AND ISSUES PRESENTED

Ms. W. claims workers' compensation benefits for a low-back injury allegedly sustained while working at Home Depot on May 13 and November 9, 2003. Ms. W. filed her first application with the Commission on December 13, 2004. She filed an amended application on February 17, 2005. Judge Lima held an evidentiary hearing on September 13, 2005, and then denied Ms. W.'s claim on December 30, 2005, on the grounds the claim failed to satisfy the more stringent prong of the *Allen*¹ test for legal causation. Ms. W. appealed Judge Lima's decision to the Labor Commission. On February 22, 2006, the Labor Commission affirmed Judge Lima's decision.

Ms. W. now asks the Commission to reconsider its decision. Specifically, Ms. W. contends that the Commission failed to consider the aggregate of Ms. W.'s work-related exertions at Home Depot and, therefore, erred in concluding that such exertions did not satisfy the more stringent *Allen* test for legal causation that is applicable to Ms. W.'s claim.

DISCUSSION

The Commission's previous decision adopted Judge Lima's findings of fact, which accurately describe Ms. W.'s work-related exertions at Home Depot. The Commission had those exertions in mind as it compared the demands of Ms. W.'s work to the typical exertions experienced in modern non-employment life. The Commission remains persuaded that Ms. W.'s actions are similar to common exertions of housecleaning, grocery shopping or lawn care, all of which are typical nonwork exertions. Furthermore this similarity holds true with respect to the particular weights lifted, the cumulative weight lifted, and the degree of repetition. Consequently, Ms. W.'s work-exertions were not unusual or extraordinary and do not satisfy the more stringent *Allen* test for legal causation.

ORDER

The Labor Commission reaffirms its previous decision in this matter and denies Ms. W.'s motion for reconsideration. It is so ordered.

Dated this 31st day of March, 2006.

¹ See *Allen v. Industrial Commission*, 729 P.2d 15, (Utah 1986).

R. Lee Ellertson
Utah Labor Commissioner